



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2018-0694; FRL-8823-03-R5]**

**Air Plan Approval; Ohio; Infrastructure SIP Requirements for the  
2015 Ozone NAAQS; Correction**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Correcting amendment.

**SUMMARY:** This action corrects codification errors in the Ohio State Implementation Plan (SIP) regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2015 Ozone National Ambient Air Quality Standards (NAAQS).

**DATES:** This correcting amendment is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Christos Panos, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328, [panos.christos@epa.gov](mailto:panos.christos@epa.gov).

**SUPPLEMENTARY INFORMATION:** On August 11, 2021, the Environmental Protection Agency (EPA) made inadvertent codification errors when it approved elements of a SIP submission from Ohio regarding the infrastructure requirements of CAA section 110 for the 2015 ozone NAAQS. In the final rule published in the Federal Register on August 11, 2021 (86 FR 43962), on page 43964, EPA mistakenly included instructions to

add entry "Section 110(a)(2) Infrastructure Requirements for the 2015 ozone NAAQS" immediately after entry "Section 110(a)(2) infrastructure requirements for the 2012 PM2.5 NAAQS", where the instructions should have said to add entry "Section 110(a)(2) Infrastructure Requirements for the 2015 ozone NAAQS" immediately after entry "Section 110(a)(2)(D) infrastructure requirements for the 2012 PM2.5 NAAQS". EPA also mistakenly identified the entry in the table entitled "EPA APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS" on page 43964 to read "Section 110(a)(2)(D) Infrastructure Requirements for the 2015 ozone NAAQS", where the correct entry should read "Section 110(a)(2) Infrastructure Requirements for the 2015 ozone NAAQS". Lastly, the citation for prongs 1 and 2 in the "Comments" column of the table on page 43964 should read "(D)(i)(I)" and not "(D)(i)(II)".

This action amends the regulatory text to correct these errors. Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this rule final without prior proposal and opportunity for comment because we are merely correcting incorrect citations in previous actions. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5

U.S.C. 553(b) (B) .

**Statutory and Executive Order Reviews.**

This action is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). This action will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified by E.O. 13132 (64 FR 43255, August 10, 1999). In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by E.O. 13175 (65 FR 67249, November 9, 2000). This

action is not subject to E.O. 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This action is also not subject to E.O. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The action also does not involve special consideration of environmental justice related issues as required by E.O. 12898 (59 FR 7629, February 16, 1994).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. EPA will submit a report containing this rule and

other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. This correction to 40 CFR part 52 for Ohio is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 23, 2021.

Cheryl Newton,  
*Acting Regional Administrator, Region 5.*

Accordingly, 40 CFR part 52 is corrected by making the following correcting amendments:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. In § 52.1870, the table in paragraph (e) is amended under the heading “Infrastructure Requirements” by adding an entry for “Section 110(a) (2) Infrastructure Requirements for the 2015 ozone NAAQS” immediately after the entry for “Section 110(a) (2) (D) infrastructure requirements for the 2012 PM<sub>2.5</sub> NAAQS” to read as follows:

**§ 52.1870 Identification of plan.**

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(e) \* \* \*

**EPA APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
* * * * *				
<b>Infrastructure Requirements</b>				
* * * * *				
Section 110(a) (2) infrastructure requirements for the 2015 ozone NAAQS	Statewide	9/28/2018	8/11/2021, 86 FR 43962	Approved CAA elements: 110(a) (2) (A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). We are not taking action on (D) (i) (I), prongs one and two.
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